

IN THE UNITED STATES DISTRICT COURT

FILED  
BILLINGS DIV.

FOR THE DISTRICT OF MONTANA

2008 MAY 7 PM 2 24

BILLINGS DIVISION

PATRICK E. DUFFY, CLERK

JOHN ROBERT DEMOS,

Petitioner,

vs.

THE U.S.A., THE STATE OF  
WASHINGTON, THE TERRITORY  
OF WASHINGTON,

Respondent.

~~CV-07-100-BLG-RFC~~

DEPUTY CLERK

CV-08-58-BLG-RFC-CSO

ORDER ADOPTING FINDINGS  
AND RECOMMENDATIONS OF  
U.S. MAGISTRATE JUDGE

On April 14, 2008, United States Magistrate Judge Carolyn S. Ostby entered her Findings and Recommendation. Magistrate Judge Ostby recommends Petitioner's Motion to Proceed in Forma Pauperis should be denied; the Petition for Writ of Habeas Corpus should be denied; a Certificate of Appealability should be denied; and any appeal would be taken in bad faith, pursuant to Fed.R.App.P. 24(a)(4)(B).

Upon service of a magistrate judge's findings and recommendation, a party has 10 days to file written objections. 28 U.S.C. § 636(b)(1). In this matter, no party filed objections to the April 14, 2008 Findings and Recommendation. Failure to object to a magistrate judge's findings and recommendation waives all objections to the findings of fact. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1999). However, failure to object does not relieve this Court of its burden to review de novo the magistrate judge's conclusions of law. *Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989).

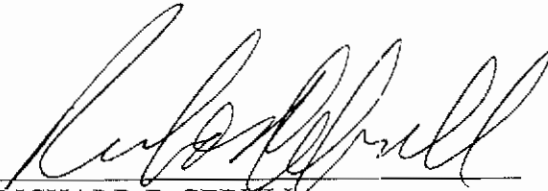
After an extensive review of the record and applicable law, this Court finds Magistrate Judge Ostby's Findings and Recommendation are well grounded in law and fact and adopts them in their entirety. This Court plainly lacks jurisdiction over the Petition.

Accordingly, **IT IS HEREBY ORDERED** as follows:

1. The Motion to Proceed in Forma Pauperis (*Doc. 2*) is **DENIED**.
2. The Petition for Writ of Habeas Corpus (*Doc. 1*) is **DISMISSED**.
3. A Certificate of Appealability is **DENIED**.
4. Pursuant to Fed.R.App.P. 24(a)(4)(B), it is **CERTIFIED** that any appeal taken by Petitioner from this disposition would not be taken in good faith.

The Clerk of Court shall notify the parties of the making of this Order and close this case.

DATED the 7<sup>th</sup> day of May, 2008.

  
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RICHARD F. CEBULL  
UNITED STATES DISTRICT JUDGE